

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of:

MAY 17 1999

Communications Assistance for
Law Enforcement Act

CC Docket No. 97-213

COMMENTS OF U S WEST, INC.

U S WEST, Inc. ("U S WEST") submits these comments in response to the Public Notice issued by the Office of Engineering and Technology ("OET") on May 7, 1999 regarding revenue estimates submitted by five manufacturers for the implementation of the Communications Assistance for Law Enforcement Act ("CALEA").^{1/} OET presumably seeks such comments because of arguments by U S WEST and other carriers that the Commission should reject the proposed "punch list" capabilities because they cost too much and therefore fail to satisfy the criteria in section 107(b) of CALEA. Indeed, as carriers have shown, any CALEA costs greater than the \$500 million authorized by Congress for CALEA compliance will impose substantial costs on ratepayers and therefore are inconsistent with section 107(b).

The aggregate figures published by OET show that the industrywide cost for less than all carriers to implement J-STD-025 alone would be almost double the \$500 million that

^{1/} *Communications Assistance for Law Enforcement Act*, CC Docket No. 97-213, Public Notice, DA 99-863 (rel. May 7, 1999) ("*Public Notice*"). On March 2, 1999, OET granted confidential treatment to the data filed by manufacturers. The Department of Justice and the Federal Bureau of Investigation ("DOJ/FBI") have petitioned for reconsideration of that order, see *Communications Assistance for Law Enforcement Act*, CC Docket No. 97-213, Petition for Reconsideration, filed by DOJ/FBI (Mar. 31, 1999) ("*DOJ/FBI Petition*"), and U S WEST may respond to that petition after notice has been published in the *Federal Register*.

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Congress authorized. When *some* of the cost for the punch list items is added in,^{2/} the total cost reaches \$1.33 billion. Thus, the OET figures by themselves demonstrate that the Commission should not include the punch list capabilities in any standard adopted under section 107(b) of CALEA.

What is more, the aggregate figures compiled by OET appear to understate the overall costs of J-STD-025 and the punch list capabilities by a significant amount. Based on the limited information it has received from manufacturers, the cost figures reported by industry groups, and its internal cost estimates, U S WEST would expect total *industrywide* CALEA compliance costs to be more than the \$1.33 billion figure reported by the OET.^{3/} The limitations of the data provided by the manufacturers and disclosed by OET point to the same conclusion. For example, OET has data for only five manufacturers, and some or all of the manufacturers excluded important costs:

- None of the manufacturers included *all* of its CALEA-related revenues.
- Some manufacturers did not include estimates for individual punch list and other capabilities.
- Some estimates assumed a “buyout” plan by the government. But there is no assurance that this plan will be implemented.
- Some manufacturers did not include hardware costs.

^{2/} The *Public Notice* states that “not all manufacturers supplied revenue estimates for each punch list capability.”

^{3/} With negotiations ongoing between industry and DOJ/FBI, it is possible that a more flexible and cooperative implementation plan could reduce carrier costs. It is unclear, however, whether those negotiations will be successful and how much such a plan actually would save.

Finally, the manufacturers' figures do not reflect carriers' substantial engineering, installation, and implementation costs.

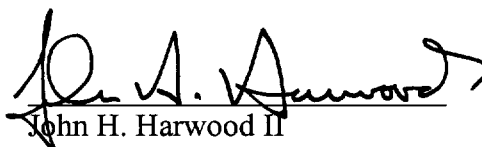
Because of these limitations, it is difficult to say how much the figures aggregated by OET underestimate total CALEA costs. As DOJ/FBI has argued, the "cost data from the manufacturers can be understood only in light of the assumptions and industry conventions that frame them."^{4/} Thus, if the Commission desires more accurate estimates of CALEA costs, it must ask the manufacturers to disclose their data based on standardized assumptions.

Of Counsel

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May 17, 1999

Respectfully submitted,



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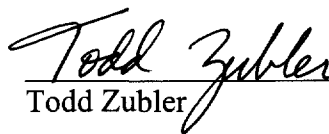
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^{4/}

DOJ/FBI Petition at 5.

CERTIFICATE OF SERVICE

I, Todd Zubler, hereby certify that, on this 17th day of May, 1999, I have caused a copy of the foregoing "Comments of U S WEST, Inc." to be served by hand or by first-class mail, postage prepaid, on each of the parties set forth on the attached service list.



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